

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

October 12, 2005  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley, Cowan, Densberger, DiMarzio, Ingham, Lussier, Lyons, Patenaude, Phillips and Varotsis

**Members absent:** Councilors Barrett, Butler, Dupee, Frost and Glines

John Bridges, Chairman, called the meeting to order at 9:00 a.m.

**1. Approval of Minutes of August 10, 2005 Meeting**

*A motion was made by Councilor Bradley to accept the minutes of the August 10, 2005 meeting as presented. The motion was seconded by Councilor Lussier and unanimously voted.*

**2. Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**  
On August 15, 2005, appellant filed a Witness and Exhibit List. On September 2, 2005 appellant filed a Motion to Continue appeal hearing, which was granted on September 6, 2005. The appeal hearing is rescheduled to November 9, 2005 at 10:00 a.m. A Decision & Order was issued on September 7, 2005 to deny appellant's July 18, 2005 Motion to Compel.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**  
A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**  
A stay remains in effect on this appeal pending a ruling by the Grafton County Superior Court on the state's petition for declaratory judgment.
- **Docket No. 04-18 WC - Appeal of Thaddeus Dymon**  
A stay remains in effect pending the resolution of a boundary line dispute in superior court.
- **Docket No. 04-19 WC - Appeal of Town of Newport**  
See Docket No. 04-18 above.
- **Docket No. 05-07 WC - Appeal of FOCUS Tamworth**  
On October 5, 2005 a notice of appeal hearing was issued scheduling this matter for hearing on December 14, 2005 at 10:00 a.m.

- **Docket No. 05-15 WC - Appeal of Sherwood Forest Manufactured Homes**  
On August 19, 2005 a Notice of Appeal from Administrative Order WD 05-023 dated July 20, 2005 for violations of RSA 485-A:13, I(a) and RSA 485-A:8, II regarding sewage discharge to the Exeter River was filed. On October 11, 2005 appellant filed a withdrawal of the appeal.

- **Docket No. 05-16 WC - Appeal of Pollard Realty Trust**  
On September 23, 2005 a Notice of Appeal from the DES denial of a waiver of the 50' setback requirement of RSA 483-B:9, II(b) dated August 25, 2005 was filed.

***A motion was made by Councilor Cowan to accept the appeal. Councilor Lussier seconded the motion and it was unanimously voted.***

- **Docket No. 05-17 WC - Appeal of Daniel Osborn**  
On September 29, 2005 a Notice of Appeal from the DES denial of a request for a shoreland variance dated August 30, 2005 was filed.

***A motion was made by Councilor Bradley to accept the appeal. Councilor Lussier seconded the motion and it was unanimously voted.***

### **3. Perchlorate Update**

Sarah Pillsbury, P.G., Administrator of the Water Supply Engineering Bureau, discussed the emerging contaminant, perchlorate, which is currently unregulated in New Hampshire. Common sources of contamination include blasting agents, military munitions, fireworks and use of perchloric acid in paints and enamels, electroplating operations, leather tanning, etc. In the human body, perchlorate inhibits iodine uptake, which the thyroid needs to produce hormones critical to metabolic functions. New Hampshire has requested voluntary sampling of water systems, which produced few detects. Those detects were generally at low levels, except one in East Jaffrey and one in Laconia. New Hampshire is conducting larger scale sampling at targeted locations and will be assessing that data along with studies which are expected to be available in December in order to determine if a public health goal should be established in New Hampshire

### **4. Groundwater Commission Update**

Sarah Pillsbury, P.G., Administrator of the Water Supply Engineering Bureau, updated the council on the Groundwater Commission. The commission is comprised of NH Senators, NH Representatives and stakeholders with an interest in groundwater issues. The commission has been extended to 2008. During the initial term of the commission, language was developed to support water use reporting legislation, which has passed as HB 215, and capital budget requests to expand the well monitoring network. A subgroup of the commission is scheduled to meet today to determine the future direction of the commission and specific issues to be addressed.

### **5. Shoreland Protection Act Commission Status**

Collis Adams, Administrator of the Wetlands Bureau, reported on the status of the Shoreland Protection Act Commission. The commission is comprised of 24 members, appointed by the Governor based on nominations from various

stakeholder groups. A preliminary report is due in November 2005 and a final report in November 2006. The first commission meeting was organizational. At the second meeting, a DES representative presented examples of the problems encountered with the SPA. General issues of concern include primary structure setbacks, woodland buffers, coordination of the SPA and wetlands statutes, and interaction between state agencies and municipalities.

- Chairman Bridges requested that updates on the progress of the commission be provided at future council meetings along with copies of commission meeting minutes.
- Councilor Cowan suggested that the Wetlands Bureau and Site Specific Section consider coordinating the permitting process for projects such as road building and upgrades. Mr. Adams concurred and indicated that currently DES has one staff member qualified to review projects on behalf of both programs.

#### **6. Legislative Update**

Harry T. Stewart, P.E., Director, Water Division, provided a legislative update.

A carry-over bill related to the dam maintenance fund is going forward. Revenue going to dam bureau programs plummeted due to the buyout of hydroelectric facilities. Possible options for revenue replacement being discussed include tapping the unrefunded gasoline tax on boats and a fee on shore frontage of lakes or ponds with water levels regulated by state-owned dams.

Mr. Stewart stated that there are 25 water-related LSRs to date. At this point, only the title of the proposed legislation is available, but he expects to have language for the proposed bills by December. Senator Green is sponsoring a bill to maintain the wetlands fees at the current level, which will allow the Wetlands Bureau to maintain full staffing.

#### **7. Other Business**

Councilor Lussier asked if there had been any progress on the Public Service permit application. Mr. Stewart indicated that the 401 Water Quality Certificate has been issued. Councilor Ingham added that it is his understanding that a draft environmental assessment is expected to be completed soon.

Councilor Densberger mentioned that a water supply forum is scheduled for today at 3:00 p.m. at the PSNH auditorium in Manchester.

#### **8. Next Meeting**

The next meeting will be November 9, 2005.

#### **9. Adjournment**

***A motion was made, seconded and unanimously voted to adjourn.***

The meeting adjourned at approximately 10:00 a.m.